

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.313/PUN/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Mihir Madhavrao Suryawanshi,
Flat No. 7, Gujarat Colony,
Paud Road, Kothrud,
Pune – 411029

PAN : AHYPS3597B

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 11(2), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.R. Shirude
Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 27-11-2019

घोषणा की तारीख / Date of Pronouncement : 16-12-2019

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 31-10-2016 passed by the Commissioner of Income Tax (Appeals)-1, Pune [‘CIT(A)’] for assessment year 2013-14.

2. The only issue to be decided is as to whether the CIT(A) justified in confirming the order of Assessing Officer in denying the deduction u/s. 54F of the Act in the facts and circumstances of the case.

3. Heard both parties and perused the materials available on record. The assessee is an individual and is a medical practitioner. The assessee has shown Long Term Capital Gain of Rs.66,35,931/- and claimed deduction u/s. 54F of the Act. According to the AO, the assessee sold property in Plot No. 173, Mahatma Housing Society, Kothrud, Pune vide surrender deed dated 10-09-2012 and purchased a flat in Lavasa Corporation vide agreement of purchase deed dated 22-04-2010. The AO opined, in order to claim deduction u/s. 54F of the Act the assessee has to make investments in purchasing or constructing residential house one year before or two years after the date on which the transfer took place or within a period of three years after the date of transfer, respectively. We note that the Assessing Officer has taken the date of 22-04-2010 as purchase and held the assessee is not entitled to claim deduction as it is not the one year before the date of sale of property i.e. 10-09-2012.

4. The contention of Shri M.R. Shirude, the ld. AR is that the assessee has paid substantial amounts for purchase of flat in Lavasa Corporation to an extent of Rs.54,97,746/- from 12-07-2012 to 06-11-2013 which is more than 50% of the sale consideration of new residential house and got possession on 03-08-2013 and it is well within two years after the date on which transfer took place. The ld. AR placed reliance on the decision of Hon'ble High Court of Bombay in the case of Smt. Beena K. Jain reported in 75 Taxman 145 (Bom.) and submitted that the Mumbai Benches of Tribunal in the case of Bastimal K. Jain following the decision of Hon'ble High Court of Bombay held the claim of deduction u/s. 54F of the Act is to be reckoned from the date of handing over of the possession of flat by the builder. In such circumstances, we find the assessee transferred his property on 10-09-2012 and got possession of new residential house on

03-08-2013 which clearly shows that the assessee made investments within two years after the date of transfer of old property. Thereby in our opinion the assessee is entitled to claim deduction u/s. 54F of the Act and impugned order of the CIT(A) is not justified and it is set aside. Thus, only ground raised by the assessee is allowed.

5. In the result, the appeal of assessee is allowed.

Order pronounced in the open court on 16th December, 2019.

Sd/-
(Anil Chaturvedi)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 16th December, 2019
RK

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-1, Pune
4. The Pr. Commissioner of Income Tax-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune